

AMENDED IN SENATE AUGUST 31, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1317**

**Introduced by Assembly Member Ruskin**  
***(Principal coauthor: Assembly Member Tran)***

February 22, 2005

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~~An act to add and repeal Sections 100854 and 100855 of, and to repeal and add Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 of, the Health and Safety Code, An act to add Sections 100827 and 100829 to, to repeal Sections 100831 and 100835 of, and to repeal and add Sections 100825, 100830, and 100832 of, the Health and Safety Code, relating to environmental laboratories.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1317, as amended, Ruskin. Environmental laboratories.

Existing law requires a laboratory that performs analysis for regulatory purposes of drinking water, wastewater, air, hazardous waste, and contaminated soils or sediments to obtain certification by the State Department of Health Services or, in the alternative, if appropriate, to obtain accreditation under the National Environmental Laboratory Accreditation Program (NELAP).

This bill would repeal, recast, and reenact *certain of* those provisions.

Among other things, the bill would authorize the department to offer both state accreditation and NELAP accreditation. The bill would set forth the duties and responsibilities of the department in accrediting and monitoring environmental laboratories, *and would authorize the department to adopt regulations.* ~~It would require the department to appoint a multidisciplinary committee to provide assistance, advice,~~

~~and recommendations to the department regarding technical and scientific aspects of laboratory accreditation. The bill would authorize an administrative hearing when the department denies, suspends, or revokes a laboratory's accreditation.~~

~~The bill would require any fees and civil penalties collected pursuant to the bill to be deposited in the Environmental Laboratory Improvement Fund, to be available upon appropriation by the Legislature for purposes of the accreditation program.~~

~~Because, in addition to civil penalties, the bill would also impose criminal penalties for violation of certain of its requirements, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes/no.~~

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 100825 of the Health and Safety Code is~~
- 2     ~~repealed.~~
- 3     ~~100825. (a) Laboratories that perform, for regulatory~~
- 4     ~~purposes, analyses of drinking water, wastewater, air, hazardous~~
- 5     ~~wastes, and contaminated soils or sediments, or any combination~~
- 6     ~~of these, shall obtain a certificate pursuant to this article.~~
- 7     ~~Laboratories that perform analyses for pesticide residues in food~~
- 8     ~~pursuant to Section 110490 shall also obtain a certificate~~
- 9     ~~pursuant to this article. A laboratory may apply for NELAP~~
- 10    ~~accreditation in lieu of certification under this article if it chooses~~
- 11    ~~to meet NELAC standards for those fields of testing under~~
- 12    ~~Section 100862 that are in common with the two programs.~~
- 13    ~~Laboratories meeting the requirements of NELAP accreditation~~
- 14    ~~pursuant to this article shall become eligible for recognition by~~
- 15    ~~other states and agencies that require or accept NELAP~~
- 16    ~~accreditation.~~
- 17    ~~(b) In any arrangement between laboratories that involves the~~
- 18    ~~transfer of samples or portions of samples, the analyzing~~

1 ~~laboratory shall be identified in all sample reports and shall be~~  
2 ~~the laboratory for purposes of certification or NELAP~~  
3 ~~accreditation.~~

4 ~~(e) The following definitions apply for the purposes of this~~  
5 ~~article:~~

6 ~~(1) “Accreditation” means the recognition of a laboratory that~~  
7 ~~is approved by a NELAP approved accrediting authority to~~  
8 ~~conduct environmental analyses in those fields of testing~~  
9 ~~specifically designated in Section 100862.~~

10 ~~(2) “Approved third-party laboratory assessor body” means an~~  
11 ~~organization that has been approved as a contractor under~~  
12 ~~NELAC standards to assess environmental laboratories.~~

13 ~~(3) “Certificate” means a document issued to a laboratory that~~  
14 ~~has received certification or accreditation pursuant to this article.~~

15 ~~(4) “Certification” means the granting of approval by the~~  
16 ~~department to a laboratory that has met the standards and~~  
17 ~~requirements of this chapter and the regulations adopted~~  
18 ~~thereunder. Certification shall not include NELAP accreditation.~~

19 ~~(5) “Corrective action report” means a written document~~  
20 ~~signed by or on behalf of a person, entity, or laboratory that~~  
21 ~~states the corrective actions proposed by the person, entity, or~~  
22 ~~laboratory to correct the deficiencies or violations stated in a~~  
23 ~~report of deficiencies.~~

24 ~~(6) “Deficiency” means noncompliance with one or more of~~  
25 ~~the requirements of this article or any rule or regulation adopted~~  
26 ~~thereunder.~~

27 ~~(7) “ELAP” means the State Department of Health Services’~~  
28 ~~Environmental Laboratory Accreditation Program.~~

29 ~~(8) “Laboratory” means any facility or vehicle that is owned~~  
30 ~~by a person, or by a public or private entity, and that is equipped~~  
31 ~~and operated to carry out analyses in any of the fields of testing~~  
32 ~~listed in Section 100860.1 or Section 100862.~~

33 ~~(9) “NELAC” means the National Environmental Laboratory~~  
34 ~~Accreditation Conference, which is a voluntary organization of~~  
35 ~~state and federal officials.~~

36 ~~(10) “NELAC standards” refer to the standards found in EPA~~  
37 ~~publication number 600/R-98/151, November 1998, and any~~  
38 ~~subsequent amendments.~~

39 ~~(11) “NELAP” means the National Environmental Laboratory~~  
40 ~~Accreditation Program established by NELAC.~~

1     ~~(12) “NELAP accredited laboratory” means a laboratory that~~  
2     ~~has met the standards of NELAC and has been accredited by a~~  
3     ~~primary or secondary NELAP recognized authority.~~

4     ~~(13) “NELAP approved accrediting authority” means a state~~  
5     ~~agency that is authorized by NELAC to accredit laboratories.~~

6     ~~(14) “NELAP recognized primary accrediting authority”~~  
7     ~~means a state or federal agency that is responsible for the~~  
8     ~~accreditation of environmental laboratories within that state.~~

9     ~~(15) “NELAP recognized secondary accrediting authority”~~  
10    ~~means a state or federal agency that grants NELAP accreditation~~  
11    ~~to laboratories based on their accreditation by a NELAP~~  
12    ~~recognized primary accrediting authority.~~

13    ~~(16) “Performance based measurement system” means a set~~  
14    ~~of processes wherein the data quality needs, mandates, or~~  
15    ~~limitations of a program or project are specified and serve as~~  
16    ~~criteria for selecting appropriate test methods to meet those~~  
17    ~~needs.~~

18    ~~(17) “Pesticide” means any substance that alone, in chemical~~  
19    ~~combination, or in any formulation with one or more substances,~~  
20    ~~is an “economic poison” within the meaning of Section 12753 of~~  
21    ~~the Food and Agricultural Code or a “pesticide” as defined in the~~  
22    ~~Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.~~  
23    ~~Sec. 136 et seq.).~~

24    ~~(18) “Regulatory agency” means any federal, state, or local~~  
25    ~~governmental agency that utilizes environmental analyses~~  
26    ~~performed by a laboratory regulated under this section.~~

27    ~~(19) “Regulatory purposes” means the use of laboratory~~  
28    ~~analysis required by a regulatory governmental agency for~~  
29    ~~determining compliance with this section or Chapter 6.5~~  
30    ~~(commencing with Section 25100) of, Chapter 6.7 (commencing~~  
31    ~~with Section 25280) of, and Chapter 6.8 (commencing with~~  
32    ~~Section 25300) of, Division 20, Article 1 (commencing with~~  
33    ~~Section 116270) of, Article 2 (commencing with Section 116325)~~  
34    ~~of, and Article 3 (commencing with Section 116350) of, Chapter~~  
35    ~~4 of Part 12 of Division 104, or Division 7 (commencing with~~  
36    ~~Section 13000) of the Water Code, or the regulations adopted~~  
37    ~~under any of the provisions set forth in this paragraph.~~

38    ~~SEC. 2. Section 100825 is added to the Health and Safety~~  
39    ~~Code, to read:~~

1     100825. (a) *This article shall be known, and may be cited, as*  
2 *the Environmental Laboratory Accreditation Act.*

3     (b) *Laboratories that perform analyses on any combination of*  
4 *environmental samples, or raw or processed agricultural*  
5 *products for regulatory purposes shall obtain a certificate of*  
6 *accreditation pursuant to this article.*

7     (c) *Unless the express language or context requires otherwise,*  
8 *the definitions in this article shall govern the construction of the*  
9 *article.*

10    (1) *“Accreditation” means the recognition of a laboratory by*  
11 *the department to conduct analyses of environmental samples for*  
12 *regulatory purposes.*

13    (2) *“Assessor body” means the organization that actually*  
14 *executes the accreditation process, including receiving and*  
15 *reviewing applications, documents, PT sample results, and onsite*  
16 *assessments.*

17    (3) *“Certificate” means a document issued by the department*  
18 *to a laboratory that has received accreditation pursuant to this*  
19 *article.*

20    (4) *“Department” means the State Department of Health*  
21 *Services.*

22    (5) *“Environmental samples” means potable and nonpotable*  
23 *surface waters or groundwaters, soils and sediments, hazardous*  
24 *wastes, biological materials, or any other sample designated for*  
25 *regulatory purposes.*

26    (6) *“NELAC” means the National Environmental Laboratory*  
27 *Accreditation Conference.*

28    (7) *“NELAC standards” refers to the requirements found in*  
29 *EPA publication number 600/R-98/151, November 1998, and any*  
30 *subsequent amendments that are adopted by EPA or the national*  
31 *program.*

32    (8) *“NELAP” means the National Environmental Laboratory*  
33 *Accreditation Program established by NELAC.*

34    (9) *“NELAP accreditation” means the accreditation of a*  
35 *laboratory that has met the requirements of the NELAC*  
36 *standards, and the requirements of this article.*

37    (10) *“NELAP accredited laboratory” means a laboratory that*  
38 *has met the standards of NELAC and has been accredited by a*  
39 *primary or secondary NELAP-recognized accrediting authority.*

1     (11) “NELAP-recognized accrediting authority” means a state  
2     agency that is authorized by NELAP to accredit laboratories.

3     (12) “NELAP-recognized primary accrediting authority”  
4     means a state agency that is responsible for the accreditation of  
5     environmental laboratories within that state or that performs the  
6     primary accreditation of a lab from a non-NELAP state or where  
7     the laboratory’s home state does not offer accreditation in a  
8     given field of accreditation.

9     (13) “NELAP-recognized secondary accrediting authority”  
10    means a state agency that is authorized by NELAP to accredit  
11    environmental laboratories within that state that have been  
12    accredited by a NELAP-approved accrediting authority in  
13    another state.

14    (14) “Proficiency testing (PT)” is a means of evaluating a  
15    laboratory’s performance under controlled conditions relative to  
16    a given set of criteria through analysis of unknown samples  
17    provided by an external source.

18    (15) “PT sample” means a sample used for proficiency  
19    testing.

20    (16) “Regulatory purposes” means a statutory or regulatory  
21    requirement of a state board, office, or department, or of a  
22    division or program that requires a laboratory certified under  
23    this article or of any other state or federal agency that requires a  
24    laboratory to be accredited.

25    (17) “Revocation” means the permanent loss of a certificate  
26    of accreditation, including all units and fields of accreditation  
27    for state accreditation and all fields of accreditation for NELAP  
28    accreditation.

29    (18) “State accreditation” means accreditation of a  
30    laboratory, that has met the requirements of this article and  
31    regulations adopted by the department pursuant to this article.

32    (19) “Suspension” means the temporary loss of a certificate of  
33    accreditation or a unit or field of accreditation.

34    SEC. 3. Section 100827 is added to the Health and Safety  
35    Code, to read:

36    100827. A laboratory accredited by the department shall  
37    report, in a timely fashion and in accordance with the request for  
38    analysis, the full and complete results of all detected  
39    contaminants and pollutants to the person or entity that

1 submitted the material for testing. The department may adopt  
2 regulations to establish reporting requirements for this section.

3 SEC. 4. Section 100829 is added to the Health and Safety  
4 Code, to read:

5 100829. The department may do all of the following related  
6 to accrediting environmental laboratories in the state:

7 (a) Offer both state accreditation and NELAP accreditation,  
8 which shall be considered equivalent for regulatory activities  
9 covered by this article.

10 (b) Adopt regulations to establish the accreditation  
11 procedures for both types of accreditation.

12 (c) Retain exclusive authority to grant NELAP accreditation.

13 (d) Accept certificates of accreditation from laboratories that  
14 have been accredited by other NELAP-recognized accrediting  
15 authorities.

16 (e) Adopt regulations to establish procedures for recognizing  
17 the accreditation of laboratories located outside California for  
18 activities regulated under this article.

19 (f) (1) Adopt regulations for the collection of laboratory  
20 accreditation fees.

21 (2) Fees collected under this section shall be adjusted  
22 annually as provided in Section 100425. The adjustment shall be  
23 rounded to the nearest whole dollar.

24 (3) Fees shall be set for the two types of accreditation  
25 provided for in subdivision (a).

26 (4) Programs operated under this article shall be fully  
27 fee-supported.

28 SEC. 5. Section 100830 of the Health and Safety Code is  
29 repealed.

30 ~~100830. The department shall adopt regulations governing~~  
31 ~~the administration and enforcement of this article. Regulations~~  
32 ~~adopted by the department under this article shall specify~~  
33 ~~conditions for recognizing on the basis of reciprocity the~~  
34 ~~certification or NELAP accreditation of laboratories located~~  
35 ~~outside of the State of California for activities regulated under~~  
36 ~~this article by another state or by an agency of the United States~~  
37 ~~government. Certification by another jurisdiction may be~~  
38 ~~recognized for purposes of this article with regard to one or~~  
39 ~~several program activities, including, but not limited to, onsite~~

1 ~~inspections, the analysis of proficiency testing samples, or the~~  
2 ~~evaluation of personnel qualifications.~~

3 *SEC. 6. Section 100830 is added to the Health and Safety*  
4 *Code, to read:*

5 *100830. The department may do all of the following:*

6 *(a) Adopt regulations establishing requirements for both types*  
7 *of accreditation. The regulations shall include, but not be limited*  
8 *to, all of the following:*

9 *(1) Laboratory personnel.*

10 *(2) Quality assurance procedures.*

11 *(3) Laboratory equipment.*

12 *(4) Facilities.*

13 *(5) Standard operating procedures.*

14 *(6) Proficiency testing.*

15 *(7) Onsite assessments.*

16 *(8) Recordkeeping.*

17 *(9) Units and fields of accreditation.*

18 *(b) Adopt regulations establishing conditions under which the*  
19 *department may issue, deny, renew, or suspend a certificate of*  
20 *accreditation for individual units or fields. Suspension and denial*  
21 *of units or fields of accreditation shall be based on a*  
22 *laboratory's failure to comply with this article and regulations*  
23 *adopted thereunder.*

24 *SEC. 7. Section 100831 of the Health and Safety Code is*  
25 *repealed.*

26 ~~100831. NELAP accreditation by another jurisdiction shall be~~  
27 ~~recognized, for purposes of this article, for the granting of~~  
28 ~~accreditation by reciprocity.~~

29 *SEC. 8. Section 100832 of the Health and Safety Code is*  
30 *repealed.*

31 ~~100832. The department shall adopt or amend the regulations~~  
32 ~~relating to environmental laboratories as necessary to enable~~  
33 ~~California environmental laboratories to participate in the~~  
34 ~~National Environmental Laboratory Accreditation Program.~~

35 *SEC. 9. Section 100832 is added to the Health and Safety*  
36 *Code, to read:*

37 *100832. All regulations adopted by the department pursuant*  
38 *to this article, as they read immediately preceding January 1,*  
39 *2006, shall remain in full force and effect until repealed or*  
40 *amended by the department in accordance with the rulemaking*



1 *provisions of the Administrative Procedure Act, Chapter 3.5*  
2 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
3 *2 of the Government Code.*

4 *SEC. 10. Section 100835 of the Health and Safety Code is*  
5 *repealed.*

6 ~~100835. (a) The department may adopt regulations for the~~  
7 ~~following:~~

8 ~~(1) Quality assurance programs in effect at the laboratory.~~

9 ~~(2) Laboratory facilities.~~

10 ~~(3) Methods.~~

11 ~~(4) Equipment.~~

12 ~~(5) Proficiency testing.~~

13 ~~(6) Fields of testing.~~

14 ~~(7) Qualifications of laboratory directors and other laboratory~~  
15 ~~personnel.~~

16 ~~(8) Fees, inspections, hearings and other matters necessary to~~  
17 ~~the administration and enforcement of this article.~~

18 ~~(9) NELAP accreditation.~~

19 ~~(10) Any other area concerning the operation or maintenance~~  
20 ~~of a laboratory not inconsistent with this article as may be~~  
21 ~~necessary to carry out this article.~~

22 ~~(b) If any regulations governing the minimum standards for~~  
23 ~~certification or NELAP accreditation, or both, of laboratories that~~  
24 ~~perform analysis of food relate to the testing of raw agricultural~~  
25 ~~commodities or dairy products, those regulations shall be~~  
26 ~~adopted, in cooperation with the Department of Food and~~  
27 ~~Agriculture.~~

28 ~~SECTION 1. Article 3 (commencing with Section 100825) of~~  
29 ~~Chapter 4 of Part 1 of Division 101 of the Health and Safety~~  
30 ~~Code is repealed.~~

31  
32  
33 **All matter omitted in this version of the bill**  
34 **appears in the bill as introduced in the**  
35 **Assembly, February 22, 2005. (JR11)**  
36